

Salaried partnerships – the good, the bad and the ugly

Management approaches will determine whether salaried partners help the culture and performance of a firm, or become a toxic subgroup that hurts the business, writes Sean Larkan.

Salaried partnerships are an important but complex aspect of law firm management.

The 2012 Edge International Global Partner Compensation System Survey highlights some trends in regard to the salaried partner regime in law firms:

- they are increasingly being appointed in firms in every country surveyed
- this pattern is anticipated to continue and increase in coming years
- 80 per cent to 90 per cent of firms surveyed (the larger firms in each region) use the salaried partner regime and have multi-tier partnerships (i.e. both equity partners and salaried partners/fixed share partners). For instance, in the US it was 86 per cent, up from 77 per cent. In the United Kingdom the figure was high as well, at 88 per cent, but interestingly a decrease from 94 per cent in 2008.

This represents a change from a decade or so ago when it seemed salaried partners were becoming a dying, exceptional breed. The trend then seemed to be 'qualify for equity partnership or you're out'. I never supported this assessment. I have always felt the salaried partner regime is a good one, and encouraged it in all its forms in the firms I have helped manage and for clients to whom I have consulted.

Properly introduced and managed, the salaried partner regime can be the most profitable and powerful financial engine of a firm, laying an immensely strong foundation for the future success of the firm - motivated young lawyers, contributing handsomely to firm profitability, providing for leadership and partnership succession and developing all the right behaviours. There is one rider to this - it must be introduced and implemented for the right reasons and in the right way (the 'good'). Unfortunately, this is often not the case (the 'bad').

Another point to make is that because salaried partnership comes to be regarded as part and parcel of normal, everyday firm structure and governance, its potential as the invaluable strategic and profitable heart of a firm can be overlooked. It can also be overlooked in another way - just how badly it is functioning, and what a high opportunity cost it actually is. I have worked with a couple of firms where we picked up that the salaried partner group was so disenchanting that it had literally become the enemy within the castle walls. When I learned why, I felt some sympathy for them.

What do we mean by 'salaried partner?' It refers to a scenario whereby lawyers who are appointed as partner and notwithstanding the level of profits earned by the firm:

- are paid a fixed amount in money (basically a salary), or
- are paid an amount of money based on a fixed percentage share (sometimes termed 'fixed equity').

The good

There are many potential positives with a salaried partner regime. Consider the following factors.

1. It is a good way to show appreciation and recognition for what high-performing lawyers have

- achieved.
2. It is a good testing ground while considering whether progression to equity partnership is warranted.
 3. It is a positive signal and confidence-builder.
 4. It provides salaried partners with a chance to find their feet in partnership and experience it first-hand; learning the partner culture and understanding the demands for performance and contribution.
 5. It provides status through the title and position - sometimes important to the individual and for clients.
 6. For some lawyers it happens to be an ideal alternative to equity partnership - due to personal or other reasons they simply may not want the added performance pressure and financial burdens of equity partnership.
 7. Some lawyers realistically will simply not meet some key performance criteria for equity, but may be outstanding on every other count - for instance, we once had a lawyer who was a leader in her practice area, a real thought leader, great with clients, a good biller, nice to deal with but who was hopeless in building or running a team (one of our pre-requisites for progression). So salaried partnership was right for her.
 8. It helps out with tough decisions, when realistically it may be difficult or 'impossible' to appoint equity partners, but where you do not wish to risk losing or demotivating an otherwise outstanding contributor.
 9. It provides a realistic buffer to poaching firms.
 10. Sometimes it is a counter to lawyers leaving for greener pastures or becoming disgruntled at not receiving recognition.

The bad

All the above positives can come unstuck if the salaried partner regime is not used or implemented in an effective way - to the detriment of those partners, the equity partners and the firm as a whole. For instance, consider the following scenarios.

1. Salaried partnership is simply used as a blockage to equity, so that existing equity partners (often notwithstanding performance and contribution) may hold equity and profits more tightly, effectively keeping aspiring equity partners 'at bay'.
2. Salaried partners are partners in name only and are not accorded the respect or recognition, internally, of true partners.

The ugly

The consequences of appointing salaried partners for the wrong reasons, or managing the regime inappropriately, can have ugly outcomes. Consider the following.

1. Salaried partners come to be viewed as nothing but a 'necessary evil'.
2. They become marginalised within the firm as part of the 'us' and 'them' partner groupings.
3. Salaried partners become an isolated, disgruntled group and serious veins of mistrust develop within the partner ranks; they become a generally underperforming group and not contributing to partnership success in a meaningful way. This directly affects their self-esteem and self-image and the respect others have for them. It is a no-win situation for everyone concerned - the start of a vicious circle.
4. In such cases it is my experience that equity partners have usually not been frank in conveying to salaried partners the true nature of the salaried partner regime in that firm (i.e. that they are merely glorified employees). Over time, as they learn or realise the true situation, this creates distrust, lack of respect and, ultimately, lack of loyalty - right in the heart of the partnership group. It is hard to imagine that a partnership governance structure would knowingly create such a situation. Unfortunately, it is not uncommon.
5. As a result, firms and their equity partners are missing a golden opportunity; by allowing such a situation to arise, the partnership is effectively exhibiting very poor values - it is 'training' the salaried partner group in the same bad behaviours. This does not bode well for the future long-term success of the firm.
6. Good salaried partners, the ones with the real potential, will leave - the net result being that the salaried partner regime becomes a holding ground for mediocre, disgruntled performers. The

vicious circle is complete.

The solution

It is not difficult to turn the salaried partner regime into a very positive, successful part of a firm's make-up. Here are some suggestions.

1. Be honest and frank about what you are using your salaried partner regime for. I believe this applies even if the main reason is to retain equity more tightly. Salaried partners will respect your frankness and honesty and might even understand the situation. It will also make the good ones even more determined to earn some of that high-value, tightly held equity!
2. If an aspiring partner has no realistic chance of becoming an equity partner, but you nevertheless wish to reward them with the title 'partner', tell them up front. Be frank with them. I have seen a number of firms do this and do it successfully. In some cases, as noted above, salaried partners decide for themselves they do not want the hassle or the pressure of equity partnership and quite openly state that they want recognition, but they prefer to remain as 'salaried' or on a fixed share.
3. If you want to turn the salaried partner regime into a strong fee-producing and marketing component in the firm, treat them as partners in every sense, possibly with limited exclusions around sensitive equity partnership discussions and information, and decisions in regard to partner admission, progression and exits.
4. Treat them with respect (as if they are truly your future leaders and owners).
5. Make it clear they are expected to behave and perform like partners in every respect. Have them meet the same performance criteria (albeit at slightly lower levels as they find their performance feet). This is one of the reasons I disagree with benchmark performance comparison data which compares performance on an equity partner only basis. I far prefer such measures to be on a 'per partner' basis (i.e. including both equity and salaried partners). I believe this gives a true reflection of reality and also encourages the right behaviours on the part of salaried partners.

Do this and you will be rewarded in spades. You will also have a happier partner group overall. I would go even further; any firm that does not have this system functioning successfully will find it very hard to compete with others that do. It is time to ensure any bad or ugly elements of your salaried partnership regime become good.

Sean Larkan is a growth strategist and specialist consultant to law firms and a partner with global consulting firm Edge International. He is a former managing partner of leading law firms in Australia, New Zealand and South Africa. He provides commentary for law firm leaders and managers through his internationally recognised blog www.legalleaders.com [<http://www.legalleaders.com/>].

<http://www.lawcouncil.asn.au/lca/almj/editions/sept-2012/en/salaried-partnerships.cfm>